CCASE:
SOL (MSHA) V. DAVID CABRERA INC.
DDATE:
19800208
TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

v.

DAVID CABRERA, INC.,
RESPONDENT

Civil Penalty Proceeding

Docket No. SE 79-3-M
A/O No. 54-00036-05004

Cantera Dorado

DECISION

ORDER TO PAY

Appearances: Edwin Tyler, Esq., Office of the Solicitor, U.S. Department of Labor, Santurce, Puerto Rico, for Petitioner Tadeo Negron Medero, Esq., Rafael Castro, Esq., Santurce, Puerto Rico, for Respondent, David Cabrera, Inc.

Before: Judge Merlin

The above-captioned proceeding is a petition for the assessment of civil penalties for 19 alleged violations of the Act.

At the hearing on January 8, 1980, the Solicitor advised that the parties now recommended settlement of the violations in this docket number. The Solicitor explained each of the settlements in detail and stated that the gravity factor had been overassessed. Further, the operator has virtually no history of prior violations under the Act, and the Act itself is relatively new as regards this operator. The recommended settlements total $1,504, which is a substantial amount for this operator who is not large in size.(FOOTNOTE 1) In view of the circumstances which are fully set forth in the administrative transcript of the hearing, the recommended settlements are approved. It is however, a matter of concern when at the hearing the Solicitor expresses evaluations so different from that of the Assessment Office.

ORDER

The operator is ORDERED to pay $1,504 in six equal payments, the first payment to be made within 30 days from the date of this decision, with subsequent payments every 30 days thereafter.

Paul Merlin
Assistant Chief Administrative Law Judge

~FOOTNOTE 1

The Solicitor incorrectly stated the total amount to be $1,554. The correct amount is $1,504.